

THE CORPORATION OF THE TOWNSHIP OF SEGUIN

BY-LAW NUMBER 2024-007

BEING A SITE ALTERATION BY-LAW TO REGULATE AND PROHIBIT THE MODIFICATIONS TO PRIVATE PROPERTIES WITHIN THE TOWNSHIP OF SEGUIN AND TO REPEAL BY-LAW 2008-104 AND BY-LAW 2008-105 AND ALL OF ITS AMENDING BY-LAWS IN THEIR ENTIRETY

WHEREAS Section 142 of the *Municipal Act, 2001*, permits the enactment of a by-law by the Council of The Corporation of the Township of Seguin:

- (a) to prohibit or regulate the Placing or Dumping of Fill;
- (b) to prohibit or regulate the removal of topsoil;
- (c) to prohibit or regulate blasting and the Alteration of the Grade of any property in the Township of Seguin;
- (d) to require a Permit be obtained for the Placing or Dumping of Fill, the removal of Soil, or the Alteration of the Grade of the land and;
- (e) to impose conditions to a Permit, including requiring the preparation of plans acceptable to the municipality relating to grading, Filling or Dumping, the removal of Soil and rehabilitation of the land;

AND WHEREAS Section 425 of the *Municipal Act, 2001*, authorizes the Township of Seguin to pass by-laws providing that a Person who contravenes a by-law of Township of Seguin passed under that Act is guilty of an offence;

AND WHEREAS Section 436 of the *Municipal Act, 2001*, provides that the municipality has the power to pass by-laws authorizing the power of entry for the purpose of inspecting land to determine compliance with a by-law, direction, order, or condition of licence;

AND WHEREAS, an order to discontinue and work orders are authorized under Sections 444 and 445 of the *Municipal Act, 2001*, where a contravention of this By-law has occurred;

AND WHEREAS, the Council of The Corporation of the Township of Seguin may require that a Permit be obtained for the following:

- (a) the placing or positioning of Fill;
- (b) the removal of Soil, and;
- (c) the Alteration of the Grade of land,

in the Township of Seguin and prescribe the fees for the Permit and the circumstances under which a Permit may be issued and the conditions to such a Permit;

AND WHEREAS, the Council of The Corporation of the Township of Seguin deems it desirable in the public interest to implement such a By-law for the purpose of:

- (a) Preventing extensive topographical changes and significant Site Alteration of properties in Shoreline Areas, including islands;
- (b) Protecting and preventing Site Alteration in Environmental Protection Areas; and
- (c) Sustaining a healthy and aesthetically pleasing natural environment;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF SEGUIN HEREBY ENACTS AS FOLLOWS:

1.0 DEFINITIONS

For the purpose of this By-law, the following definitions shall apply:

“Agreement” means any Agreement made between the Township and a property Owner such as but not limited to a Consent Agreement, Site Plan Agreement or License Agreement;

“Alteration” or “Site Alteration” means a change in elevation from Existing Grade or Finished Grade resulting from:

- i. the Placing or Dumping of Fill,
- ii. the removal of Soil or Fill,
- iii. Placing, Dumping, removal, or Rock Blasting, or
- iv. any other action that alters the Grade of land including the altering in any way of a Natural Drainage Course or Shoreline on a Site.

“Alter”, “Altered” and “Altering” shall have a corresponding meaning;

“Applicant” means the Person who submits an application for a Permit under this By-law;

“Building Permit” means a Building Permit issued under the *Building Code Act*, 1992, S.O. 1992, c. 23, as amended;

“Clerk” means the Clerk of the Township of Seguin;

“Council” means the Council of the Township of Seguin;

“Director” means the Director of Planning for the Township or their designate provided such designate is an Officer as defined in this By-law;

“Drainage” means the movement of water, whether by way of the natural characteristics of the ground surface or by artificial means;

“*Drainage Act*” means the *Drainage Act*, R.S.O. 1990, c. D.17, as amended;

“Driveway” means the ingress and egress lane or lanes that are connected to a highway that leads to a residential dwelling unit but does not include a Parking Area;

“Dry-Laid” means a method of construction or installation where individual stones, blocks or pavers are laid on a bed of sand or gravel or other similar material and the stones, blocks or pavers are held in place by tightly compacted material and does not include the use of concrete or mortar, asphalt, pavement or other poured materials;

“Dumping” and “Dump” means the depositing of Fill in a location other than where the Fill was obtained or the movement and depositing of Fill from one location on a property to another location on the same property;

“Dwelling” means a principal dwelling unit occupying an area greater than 10 m² and consisting of any combination of walls, roof and floor or any structural system serving the function.

“Erosion” means the detachment and movement of Soil, sediment or rock fragments by water, wind, ice or gravity;

“Fill” means any type of material capable of being removed from or deposited on lands, such as Soil, stone, sod, turf, concrete, pavement, stumps, rock, and asphalt either singly or in combination excluding construction material which is incorporated into a building or Structure within six (6) months of deposit on the lands and excluding installed paving materials;

“Financial Assurance” means security in the form of cash, certified cheque, bank draft or letter of credit that is lodged by an Owner or Applicant with the Township to secure the performance of any obligation imposed upon an Owner or Applicant;

“Grade” means the elevation of the ground surface and shall be more particularly defined as follows:

- (i) **“Existing Grade”** means the elevation of the existing ground surface of the lands upon which Dumping and/or Placing of Fill, Altering of the Grade, removing of Soil, or Rock Blasting is proposed and of abutting ground surface up to three (3) metres wide surrounding such lands, except that where such activity has occurred in contravention of this By-law, Existing Grading shall mean the ground surface of such lands as it existed prior to the said activity;
- (ii) **“Proposed Grade”** means the proposed finished elevation of ground surface after Fill is Dumped or Placed, the Grade altered, or Soil removed; and
- (iii) **“Finished Grade”** means the approved elevation of the ground surface of lands upon which Fill has been Placed or Dumped, the Grade altered or Soil removed, in accordance with this By-law;

“Municipal Act, 2001” means the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended;

“Natural Drainage Course” means a valley or elongated depression created by naturally flowing water that varies in size and may be dry or contain intermittent, ephemeral, or perennial running water, including a lake, river, stream, creek, spring, ravine, swamp and gulch with well-defined

banks and a bed that gives direction to a water source, but excludes roadside ditches, drainage ditches and irrigation works;

“Officer” means a Municipal Law Enforcement Officer that has been appointed through a by-law in the Township of Seguin to administer and enforce by-laws in the Township;

“Order” means a mandatory requirement for action within a specified time period specifically issued by an Officer or other authorized personnel to address issues of non-compliance with any section of this By-law or the conditions of a Permit which includes a Stop Work Order or an Order to Remedy;

“Owner” means the registered Owner(s) of the property;

“Parking Area” means the use of an area of land, building or Structure associated with the principal use of the same lot for the parking of motor vehicles and does not include the ingress or egress lane(s) of a Driveway;

“Patio” means a platform without a roof with direct access to the ground, which is designed and intended for use as an amenity space which is accessory to the principal use on the lot;

“Permit” means the authorization in writing from the Director or their designate provided such designate is an Officer, to make modifications to landscapes in the Township pursuant to this By-law;

“Person” means any individual, corporation, partnership or association, firm, trust, or other entity and includes anyone acting on behalf or under the authority of such entity;

“Placing” or “Place” means the distribution of Fill on lands to establish a Finished Grade, and includes Soil stripping;

“*Planning Act*” means the *Planning Act*, R.S.O. 1990, c. P.13, as amended;

“Professional” means a Person, who in the opinion of the Township, has experience and training in the pertinent discipline, and who is a qualified expert with expertise appropriate for the relevant critical area or subject;

“Riparian Zone” is a five (5) metre buffer adjacent to the Shoreline that may contain a combination of trees, shrubs and/or other perennial plants and is managed differently from the surrounding landscape;

“Rock Blasting” means to break up or dislodge various rock materials to form or open up land through various means such as, but not limited to explosives or hydraulics;

“Sedimentation Control Plan” means a plan to control Erosion and sedimentation prepared and implemented to comply with this By-law;

"Site" means the lands which are the subject of an application for a Permit and where the Alteration will occur, or has occurred if the Soil has not yet been stabilized to prevent Erosion and sedimentation;

"Soil" means material commonly known as earth, topsoil, loam, subsoil, clay, sand or gravel;

"Shoreline" means the line at which the Natural Drainage Course meets the land;

"Structure" means anything constructed, the use of which requires location on or in the ground, or attached to something having a location on or in the ground. This definition shall include swimming pools and sports courts, hot tubs, and Jacuzzis over 15 square metres;

"Temporary Access Road" means a temporary road that is no wider than 4.5m (15ft) and has been constructed for the purpose of gaining temporary access to a water access-only property in order to allow for construction vehicles or other machinery to safely maneuver a property. A water access-only property is a property which does not have access or frontage to a public street, right-of-way or Driveway, and can only be developed by barge, boat or similar access from a Natural Drainage Course;

"Tile Drainage Act" means the *Tile Drainage Act*, R.S.O. 1990, c. T.8, as amended;

"Township" and "Township of Seguin" means The Corporation of the Township of Seguin;

"Vegetation" means any woody plant, or contiguous cluster of plants including trees, shrubs, and hedgerows;

"Walkway" means an access pathway between the Shoreline and Shoreline Structures to other areas on the lot. A Walkway shall be made of natural, Water Permeable materials or Dry-Laid construction, and shall have a maximum width of 2.0 metres;

"Water Permeable" or "Pervious" means any material used or a style of construction or installation that allows water or other liquids to pass through the feature or Structure, this definition can also be used for "permeable materials";

"Zoning By-law" means the by-law regulating land use as provided for under the *Planning Act* within the Township.

2.0 LAND SUBJECT TO THIS BY-LAW

2.1 This By-law applies to the following lands within the Township:

- (a) All lands within 60 metres of a Shoreline; and
- (b) All lands zoned Environmental Protection (EP and EP1) in the Township Comprehensive Zoning By-law.

3.0 EXEMPTIONS

3.1 The provisions of this By-law do not apply to the following:

- (a) Activities or matters undertaken by the Township or a local board of the Township;
- (b) Lots owned by the Township of Seguin;
- (c) the Placing or Dumping of Fill, removal of Soil, Rock Blasting, or Alteration of the Grade of land imposed after December 31, 2002 to facilitate development permitted by the approval of a site plan, a plan of subdivision, or development Agreement or consent under Section 41, 45, or 51, respectively, of *the Planning Act*;
- (d) the Placing or Dumping of Fill, removal of Soil, Rock Blasting, or Alteration of the Grade of land imposed after December 31, 2002 to facilitate development permitted by a development permit authorized by regulation made under Section 70.2 of the *Planning Act*;
- (e) the Placing or Dumping of Fill, removal of Soil, Rock Blasting, or Alteration of the Grade of land undertaken by a transmitter or distributor, as those terms are defined in Section 2 of the *Electricity Act, 1998*, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
- (f) the Placing or Dumping of Fill, removal of Soil, Rock Blasting, or Alteration of the Grade of land undertaken on land described in a license for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act* or a predecessor of that Act;
- (g) the Placing or Dumping of Fill, removal of Soil, Rock Blasting, or Alteration of the Grade of land undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land;
 - i. that has not been designated under the *Aggregate Resources Act* or a predecessor of that Act, and
 - ii. on which a pit or quarry is a permitted land use under a by-law passed under Section 34 of the *Planning Act*;
- (h) the Placing or Dumping of Fill, removal of Soil, Rock Blasting, or Alteration of the Grade of land undertaken as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act*;

- (i) the removal of Soil as an incidental part of a normal agricultural practice including such removal as an incidental part of sod farming, greenhouse operation and nurseries for horticultural products, but not the removal of Soil for sale, exchange or other disposition;

Development Exemptions

Septic Systems

- (j) the Placing or Dumping of Fill, removal of Soil, Rock Blasting or Alteration of Grade:
 - i. for the installation of a septic system for which a Building Permit has been issued; and
 - ii. for the purpose of grading to accommodate such a system extending no more than 3 m from the perimeter of a septic system envelope, or as shown in the plans accompanying and/or referenced in the required Building Permit.

Access/Driveways

- (k) the Placing or Dumping of Fill, removal of Soil, Rock Blasting or Alteration of Grade necessary for the installation of a Driveway or Parking Area upon obtaining, if applicable, any necessary entrance permit from the Township of Seguin, Ministry of Transportation or other relevant authority or property Owner, and subject to the following conditions:
 - (i) the Placing or Dumping of Fill, removal of Soil, Rock Blasting or Alteration of Grade necessary for the installation of a Driveway or Parking Area does not extend closer to a Shoreline than the rear of a dwelling, sleeping cabin or garage to which it is serving, and is no closer than 20 metres from the Shoreline; and
 - (ii) the Driveway or Parking Area is not located on lands zoned Environmental Protection (EP or EP1) under the Comprehensive Zoning By-law.
- (l) The Placing or Dumping of Fill for the purpose of one (1) Temporary Access Road no wider than 4.5 metres on properties;

Existing Dwellings between 0 and 20 metres from the Shoreline

- (m) The Placing or Dumping of Fill, removal of Soil, Rock Blasting or Alteration of Grade necessary for the installation of a foundation for an existing Dwelling within 20 metres of the Shoreline, the construction of

which is authorized under a Building Permit issued by the Township, and an area extending no more than 3 metres from the outer wall of the Dwelling for the purposes of grading to accommodate the installation, subject to the following:

- i. Rock Blasting shall be explicitly prohibited within 20 metres of the Shoreline for any new Dwelling or Structure which is erected following the date of this By-law's adoption, unless a Permit has been issued.

Structures Between 20 and 60 metres from the Shoreline

- (n) The Placing or Dumping of Fill, removal of Soil, Rock Blasting or Alteration of Grade necessary for the installation of a Structure between 20 metres and 60 metres of the shoreline, the construction of which is authorized under a Building Permit issued by the Township, or an area extending no more than 3 metres from the outer wall of the foundation of the building for the purposes of grading to accommodate the installation.

Shoreline Accessory Structures, Patios and Walkways

- (o) The Placing or Dumping of Fill, removal of Soil or Alteration of Grade within 20 metres of the Shoreline necessary for the installation of waterfront accessory Structures in accordance with Section 4.1.9 of the Township of Seguin Zoning By-law 2006-125, as amended, provided that:
 - (i) no Placing or Dumping of Fill, removal of Soil or Alteration of Grade occurs beyond 2 metres from the outer edge of the approved building or Structure envelope to accommodate the construction or installation. This provision shall not apply to Walkways directly connecting to a boathouse or dock;
 - (ii) any proposed tree injury, destruction or removal is completed in accordance with the Township of Seguin Tree Conservation By-law, as amended; and
 - (iii) no Rock Blasting is permitted.
- (p) The Placing or Dumping of Fill, removal of Soil or Alteration of Grade within 20 metres of the Shoreline necessary for the installation of a Patio provided that:
 - (i) only a Dry-Laid Patio, or a Patio made of other natural permeable materials, is permitted;

- (ii) the cumulative area of all Patios does not exceed 28 square metres for lots with a frontage of 90 metres or less;
 - (iii) the cumulative area of all Patios does not exceed 40 square metres for lots with a frontage of more than 90 metres;
 - (iv) the maximum elevation of the Patio is 0.6 metres above the Existing Grade;
 - (v) it does not occur within the five (5) metre Riparian Zone along the Shoreline;
 - (vi) any proposed tree removal is completed in accordance with the Township of Seguin Tree Conservation By-law, as amended; and
 - (vii) no Rock Blasting is permitted.
- (q) The Placing or Dumping of Fill, removal of Soil or Alteration of Grade within 20 metres of the Shoreline necessary for the installation of a Walkway provided that:
- (i) only a Dry-Laid Walkway, or a Walkway made of other natural permeable materials, is permitted;
 - (ii) the area of Alteration to accommodate the Walkway is a maximum width of 2 metres;
 - (iii) any proposed tree removal is completed in accordance with the Township of Seguin Tree Conservation By-law, as amended;
 - (viii) it does not occur within the five (5) metre Riparian Zone along the Shoreline unless it directly connects to a dock or boathouse; and
 - (ix) No Rock Blasting is permitted.

Maintenance of Beaches and Existing Features

- (r) The maintenance of existing, or naturally occurring beaches. Existing for the purpose of this provision shall allow for the maintenance of beaches above the Shoreline in the same state as occurring prior to and since August 5, 2008;
- (s) The maintenance of an existing Walkway, Patio or retaining walls. Existing for the purpose of this provision includes a Walkway, Patio or retaining wall that legally existed before August 5, 2008;

Exempt Land Uses

- (t) Marinas;
- (u) Commercial uses in the Settlement Area Designation of the Official Plan.

4.0 GENERAL PROVISIONS AND REGULATIONS

- 4.1 No Person shall cause or permit any Site Alteration unless such Site Alteration that occurs:
- (a) is subject to and conducted in accordance with an exemption or exemptions as set out in Section 3.0; or
 - (b) is under authorization of a Permit issued under this By-law.
- 4.2 No Person shall cause or permit Site Alteration that results or may result in:
- (a) Erosion on the Site or any neighbouring property;
 - (b) siltation or pollution of a watercourse, wetland or storm swale/sewer; and
 - (c) steps or staircases leading directly into a Natural Drainage Course or through the Shoreline.
- 4.3 The exemption under Section 3.1 (p) of this By-law does not allow a Person or Owner to cause or permit Site Alteration beyond the outer edge of a Patio.
- 4.4 The exemption under Section 3.1 (q) of this By-law does not allow a Person or Owner to cause or permit Site Alteration beyond the outer edge of a Walkway.
- 4.5 No Person shall cause or permit Site Alteration for a Walkway or Patio which results in Trees being removed in contravention of the requirements of the Township of Seguin Tree Conservation By-law, as amended.
- 4.6 No Person shall cause or permit Site Alteration for the installation of a foundation for a building approved under the *Building Code Act*, 1992, S.O. 1992, c. 23, as amended, or for a building, Structure, or feature installed in compliance with the Comprehensive Zoning By-law which results in trees being removed in contravention of the requirements of the Tree Conservation By-law, as amended.
- 4.7 No Person shall fail to comply with an Order issued under this By-law.
- 4.8 No Person shall pull down, remove or deface an Order posted under this By-law.
- 4.9 No Person shall fail to produce or post a Permit as required by this By-law.

- 4.10 If archaeological resources are discovered or identified during any Site Alteration, including that permitted by this By-law, the Owner shall immediately cease all activity on the Site and contact the Director and take such actions as defined by the Director or other responsible agency to address, safeguard, and protect the archaeological resources.
- 4.11 Sufficient Erosion and sedimentation control measures, such as a sedimentation fence, shall be provided around any area that may be disturbed in a manner satisfactory to the Director or an Officer prior to the commencement of the Site Alteration and shall be maintained in good working order until the Site has been stabilized and operations completed.
- 4.12 No Person shall fail to erect an adequately installed sedimentation fence before the commencement of Site Alteration or construction of a building, Structure, septic area or waterfront accessory Structure.
- 4.13 No Person shall fail to adequately maintain a sedimentation fence during Site Alteration or construction of a building, Structure, or waterfront accessory Structure.
- 4.14 No Person shall cause or permit any Site Alteration to erect a building, Structure or thing for an occasional or special event as permitted by the Comprehensive Zoning By-law.
- 4.15 No Person shall permit any Site Alteration contrary to the provisions of any Agreement authorized under Section 41, 45, 51 or 53 of the *Planning Act* entered into with the Township that is registered on the title of the subject property.

5.0 APPLICATION REQUIREMENTS

- 5.1 A Person who wishes to obtain a Permit shall submit to the Director an application that:
- (a) is a complete Application as set out in Schedule "A", in such form as may be approved by the Director;
 - (b) is accompanied by the prescribed fee(s) in accordance with the applicable Township of Seguin Fees and Charges By-law;
 - (c) includes, at the discretion of the Director,
 - i) a Sedimentation Control Plan in accordance with the requirements in Section 9 of this By-law; and/or
 - ii) a Financial Assurance in a form and amount acceptable to the Director as provided for in Section 5.4.

- (d) includes any report required by the Township or external agency (e.g., Sedimentation Control Plan, archeological report, Vegetation analysis, environmental impact assessment, geotechnical report, or hydrogeological report.)

5.2 An application for a Permit shall only be deemed complete if;

- (a) the application has been completed in full;
- (b) the Owner/Applicant has signed the application;
- (c) the party who will be undertaking or responsible for the Site Alteration has signed the application;
- (d) the application fee has been paid;
- (e) any required inspections have been undertaken;
- (f) a Financial Assurance required by the Director has been provided;
- (g) an application for a permit for Tree Removal has been completed and submitted in accordance with the Township's Tree Conservation By-law, as amended, if tree injury, destruction or removal is contemplated.

5.3 Upon submitting an application for a Permit, the Owner shall be deemed to and expressly authorize Officers, Directors or anyone designated by an Officer or Director to enter upon the property identified in the application and undertake such Site inspections as deemed necessary by the Township. An Officer, Director or anyone designated by an Officer or Director may undertake a Site inspection prior to, during and after the consideration of the application and/or issuance of a Permit and/or the conduct of the proposed activity.

5.4 The Director has the discretion to require a Financial Assurance as a condition of issuing a Permit, and the Financial Assurance shall be dealt with in accordance with the following conditions:

- (a) The Financial Assurance shall be in a sufficient amount to equal the cost of re-vegetation or re-naturalization of a property and any subsequent studies or inspections required by the Township, as determined by a Professional;
- (b) The Financial Assurance may be drawn upon by the Township to remedy any deficiency in work under a Permit, including but not limited to Site restoration;
- (c) The Financial Assurance shall remain in effect for the full duration of the Permit;
- (d) Financial Assurance shall be in an amount that is sufficient to provide for restoration of the subject property in compliance with this By-law and/or the Permit

issued hereunder and may include without limitation, funds sufficient to provide for the conduct of work by a qualified Professional in furtherance of the foregoing; and

- (e) The Financial Assurance shall be released by the Township following the completion of a final inspection to the satisfaction of the Director.

6.0 ISSUANCE OF PERMIT

6.1 The Director shall issue a Permit where:

- (a) The Director is satisfied that the application is complete, in accordance with this By-law and the Schedules;
- (c) The Director is satisfied that the proposed Placing or Dumping of Fill, Altering of the Grade or removing of Soil, will not result in the following:
 - (i) Erosion;
 - (ii) Blockage of a natural or manmade watercourse;
 - (iii) Siltation of a natural or manmade watercourse;
 - (iv) Contamination of a natural or manmade watercourse;
 - (v) Any disruption or impact of both warm and cold watercourses;
 - (vi) Flooding or ponding;
 - (vii) A detrimental effect on any Vegetation that has been designated for conservation;
 - (viii) A detrimental effect on the natural environment of the area;
 - (ix) Contravening the intent of this By-law as expressed in the recitals; and
 - (x) Negative impacts to the natural environment's aesthetic and biological features and functions.
- (d) All other permits, application material, background studies, Agreements, documents, reports and Financial Assurances, if required, have been received, reviewed and approved to the satisfaction of the Director; and
- (e) Any other matters that the Director considers relevant have been completed to the satisfaction of the Director.

7.0 RENEWAL, TRANSFER, EXPIRY AND REVOCATION OF PERMITS

Renewal

- 7.1 A Permit which has expired may be renewed by the Director as appropriate, within a period of three (3) months before the date of expiry upon the submission of a written request to the Director accompanied by a payment of one-half of the original Application Fee, provided that the proposed work which was the subject of the Permit has not been revised;

- 7.2 A Permit which has been renewed in accordance with Section 7.1 shall thereafter be treated as a new Permit except that it shall not again be renewed unless specifically stated in a Site Alteration Agreement.

Transfer

- 7.3 A Permit shall expire upon the transfer of ownership of the Site unless the new Owner provides written commitment to comply with all conditions under which the Permit was issued, prior to the transfer of the Site, including compliance with this By-law and Agreement to provide Financial Assurance in a form and amount acceptable to the Director, at which time any Financial Assurance previously provided by the original Permit holder pursuant to this By-law shall be released.
- 7.4 Failing the written commitment from the new Owner, the Permit shall be deemed to be cancelled as of the date of transfer.
- 7.5 A Permit is not transferable to another Site.

Expiry and Revocation

- 7.6 A Site Alteration Permit expires on the date set out in the Permit.
- 7.7 The Township may revoke any Permit if:
- (a) it was obtained from mistaken, false or misleading information;
 - (b) it was issued in error;
 - (c) the Owner or Permit holder requests it be revoked in writing;
 - (d) work authorized under the Permit has not commenced prior to its expiry date;
 - (e) the Owner has breached any of the prohibitions of Section 4 of this By-law; and
 - (f) the land has been transferred and the new Owner has not complied with the requirements under this Section of the By-law.
- 7.8 When a Permit expires or is revoked, the Owner shall immediately cease all Site Alteration, and shall immediately rehabilitate and stabilize the Site to prevent adverse effects from Erosion and sedimentation from or at the Site. If the Owner has a registered Site Plan Agreement, subdivision Agreement, or a Developmental Agreement that includes the Site Alteration as a condition or requirement, rehabilitation and stabilization shall take place in accordance with that Agreement.

8.0 REVIEW OF DECISIONS OF DIRECTOR

- 8.1 An Applicant for a Permit under this By-law may request a decision by Council for any request for an exemption to this By-law:
- (a) Where the Director refuses to issue a Permit, within ten (10) days after the refusal; or
 - (b) if the Director fails to make a decision on the complete Application, within sixty (60) days after the complete application is received by the Director, or
 - (c) if the Applicant objects to a condition in the Permit, within thirty (30) days after the issuance of the Permit.

9.0 REQUIREMENTS FOR SEDIMENTATION CONTROL PLANS

- 9.1 Every Sedimentation Control Plan shall be completed and signed by a Professional as defined in this By-law.
- 9.2 A Sedimentation Control Plan shall identify and include the relevant information as set out in Schedule "B" of this By-law.
- 9.3 The Township may request additional information on any Sedimentation Control Plan that is submitted with an application.

10.0 ORDERS

- 10.1 Where the Director, their designate or an Officer is satisfied that a Person has contravened any provision of this By-law, the Officer may issue a "Stop Work Order", an "Order to Remedy" or both and such Orders shall contain:
- (a) the municipal address of the land, this may also include the legal description of the land and/or roll number associated with the land;
 - (b) reasonable particulars of the contravention(s); and
 - (c) the period in which there must be compliance.
- 10.2 The Orders issued pursuant to Section 10.1 of this By-law may require a Person or corporation who has contravened any section of this By-law to:
- (a) cease all work in relation to Site Alteration;
 - (b) remove the Fill;
 - (c) fill in any holes, ruts, excavations or ponds;
 - (d) complete all necessary work to:

- (i) eliminate any hazard or potential hazard from the Alteration of the Grade or the Placing, Dumping or Removal of Fill and to restore the land to a condition of safety and/or its original environmental condition to the satisfaction of the Township;
 - (ii) restore the land to its former condition prior to the Alteration of the Grade of the land or to the Placing, Dumping, cutting or Removal of the Fill on the land or other Site Alteration to the satisfaction of the Township;
 - (iii) undertake such further investigations as required by the Township to identify the extent of any breach of this By-law and do work to correct the contravention, as deemed appropriate by the Township;
- (e) Any other requirement as deemed necessary by the Director or Officer.
- 10.3 Every Person to whom a "Stop Work Order" or an "Order to Remedy" is given shall comply with it.
- 10.4 Any remedial work that is ordered through a "Stop Work Order" or an "Order to Remedy" shall be done in accordance with a Professional's report/plan that shall be submitted to the Township within the period of compliance provided for listed on the Order.
- (a) An Order is not deemed to be complied with until the Professional's report/plan has been approved by the Township, which may include a review by a third party retained by the Township and the remedial work has been completed to the satisfaction of the Township.
- 10.5 Any Order issued under this Section may be served personally and/or served by sending it by registered mail, and/or email to the last known address of;
- (a) The Owner of the property at the address shown on the municipal tax rolls;
 - (b) The Person identified as contravening this By-law;
 - (c) If sent via email, the Order shall be sent to the last known email address of the Person(s) or corporation(s) in which the Order is addressed.
- 10.6 Where service of an Order is made by registered mail, the Order shall be deemed to have been served on the fifth (5th) day after the Order is mailed.
- 10.7 Where service of an Order is made by email, the Order shall be deemed to have been served on the fifth (5th) day after the Order was emailed or upon a response from the recipient of the Order.

- 10.8 Where service cannot be made under Section 10.5, it is deemed sufficient if the Director, their designate or Officer places a placard containing the terms of the Order in a conspicuous place on the affected lands and the placing of the placard shall be deemed to be sufficient service of the Order on the Person to whom the Order is addressed to.
- 10.9 If the Owner or Permit holder fails to do the work required by an "Order to Remedy" or "Stop Work Order" issued pursuant to Sections 10.1-10.2 inclusive of this By-law within the period specified, the Municipality, in addition to all other remedies it may have, may do the work and for this purpose may enter on the land with its employees and agents. The costs incurred by the Township in so doing shall be paid by the Owner of the land and may be recovered by the Township in the same manner as property taxes or by drawing on the Financial Assurance provided.
- 10.10 Any costs incurred by a property Owner as a result of remedial action as outlined in Section 10.9 of this By-law will also include interest calculated at a rate of fifteen percent (15%) which is calculated for the period commencing on the day the Township incurs the cost and ending on the day the cost, including the interest, is paid in full.
- 10.11 The amount of the cost incurred could constitute a lien on the land upon which the registration in the proper land registry office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued at the rate established in Section 10.10 to the date full payment is made.
- 10.12 Upon the Township receiving payment of all costs payable plus interest accrued to the date of payment, the Township shall register a discharge of the lien in the proper land registry office at the expense of the Owner.
- 10.13 If a Person or corporation is not satisfied with the terms of an "Order to Remedy" or a "Stop Work Order" they may request an appeal to be heard by Council or any appointed appeal body/committee by submitting an appeal form within thirty (30) days of receiving the Order upon paying the prescribed fees as set out in the existing Township of Seguin Fees and Charges By-law.
- 10.14 When an appeal is heard by Council, Council has the power to confirm, modify, extend or rescind an "Order to Remedy" or "Stop Work Order". The decision of Council is final and no further appeals will be permitted.

11.0 INSPECTION AND ENFORCEMENT

- 11.1 No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this By-law. Any Person who is alleged to have contravened any of the provisions of this By-law shall identify themselves to the Officer upon request, failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of his duties.

- 11.2 The Director, their designate or an Officer may, at any reasonable time, enter and inspect any land to determine whether provisions of this By-law, a condition of a Permit issued under this By-law has been complied with, or to ensure that an Order issued under this By-law or Section 431 of the *Municipal Act*, 2001, has been complied with.
- 11.3 For the purposes of conducting an inspection pursuant to Section 10.2 of this By-law, the Township may, in accordance with Section 436(2) of the *Municipal Act*, 2001:
- (a) Require the production of documents or things relevant to the inspection;
 - (b) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c) Require information from any Person concerning a matter related to the inspection; and/or
 - (d) Alone or in conjunction with a Person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.
- 11.4 Upon completion of the work pursuant to the Permit, the Owner and/or Permit holder shall contact the municipality for an inspection.
- 11.5 This By-law shall be administered and enforced by the Director, their designate or an Officer.

12.0 OFFENCES AND PENALTIES

- 12.1 Every Person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation is guilty of an offence and on conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.
- 12.2 Every Person who contravenes the provisions of any section of this By-law is guilty of an offence under the provisions of the *Municipal Act*, 2001, S.O. 2001, c. 25 as amended and is liable on conviction to a penalty where the minimum fine shall not exceed \$500.00 and a maximum fine shall not exceed \$100,000.00 exclusive of costs under the provisions of the *Municipal Act*, 2001, S.O. 2001, c. 25 as amended.
- 12.3 Every director or officer of a corporation who contravenes any provisions of the By-law is guilty of an offence under the provisions of the *Municipal Act*, 2001, S.O. 2001, c. 25 as amended and is liable on conviction to a penalty where the minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000.00 exclusive of costs under the provisions of the *Municipal Act*, 2001, S.O. 2001, c. 25 as amended.

- 12.4 Every Person who contravenes the provisions of any section of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of the By-law by the corporation is guilty of an offence under the provisions of the *Municipal Act*, 2001, S.O. 2001, c. 25 as amended and is also liable for a special fine in circumstances where there is an economic advantage or gain from the contravention of this By-law and the maximum amount of the special fine may exceed \$100,000.00.
- 12.5 If there is a contravention of any provision within this By-law, and the contravention has not been complied with or corrected, the contravention of the provisions shall be designated as a continuous offence for each day or part of a day that the contravention remains uncorrected.
- 12.6 For the purposes of this By-law, if there is an offence respecting two or more acts or omissions, each of which separately constitutes an offence and is a contravention of the same provision of this By-law, then the offence is deemed a multiple offence.
- 12.7 For the purpose of continuous offences, every Person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence and is liable on conviction to a penalty not exceeding \$10,000.00 per day or part thereof, exclusive of costs, under the provisions of the *Municipal Act*, 2001, S.O. 2001, c. 25 as amended.
- 12.8 For the purpose of multiple offences, every Person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence and is liable on conviction to a penalty not exceeding \$10,000.00 per offence, exclusive of costs under the provisions of the *Municipal Act*, 2001, S.O. 2001, c. 25 as amended.
- 12.9 Notwithstanding Section 12.7 and 12.8, and in accordance with the provisions of the *Municipal Act*, 2001, S.O. 2001, c. 25 as amended, the total of all fines for continuous offences or multiple offences is not limited to \$100,000.00.
- 12.10 If an Order has been issued under this By-law, and the Order has not been complied with, the contravention of the Order shall be designated as a continuous offence for each day or part of a day that the Order is not complied with.
- 12.11 If this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the Person convicted.
- 13.0 OTHER APPROVALS**
- 13.1 The issuance of a Permit under this By-law does not excuse the Owner from complying with other applicable federal, provincial and municipal By-laws.

14.0 CONFLICT WITH OTHER BY-LAWS

14.1 Nothing in this By-law shall exempt any Person from complying with the requirement of any By-law in force or from obtaining any license, permission, permit, authority or approval required under any By-law or legislation.

15.0 SEVERABILITY

15.1 Should any section, clause or provision of this By-law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the By-law as a whole or any part thereof, other than the part which was declared to be invalid.

16.0 INTERPRETATIONS

16.1 For the purposes of this By-law, all measurements are shown in imperial and metric equivalent is in brackets following. The imperial measurement shall prevail and the metric equivalent is for reference only.

16.2 "m" in this By-law refers to metres.

16.3 Schedules "A" to "C" plus any others shall form part of this By-law.

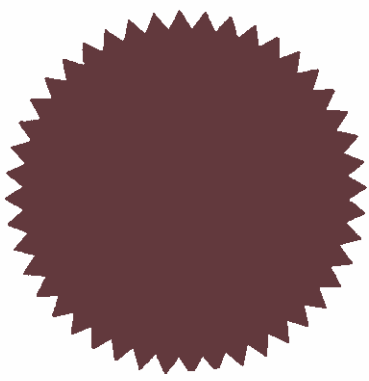
17.0 EFFECTIVE DATE AND SHORT TITLE

17.1 By-law No. 2008-104 and By-law No. 2008-105 and all of its amending By-laws are hereby repealed in its entirety and any By-laws or Resolutions, or portions thereof, inconsistent with or contrary hereto are hereby repealed.

17.2 This By-law will come into force and effect on the date of passage.

17.3 The short title of this By-law is the "Site Alteration By-law".

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED AND ENACTED this 4th day of March, 2024.



Mario Buszynski
Acting ~~MAYOR John MacDiarmid~~
MAYOR Mario Buszynski

Craig Jeffery
CLERK Craig Jeffery

Schedule "A" to By-law No. 2024-007

Standards for Site Alteration Plans

Definition of Site Alteration: means a change in elevation from Existing Grade or Finished Grade resulting from:

- i) the Placing or Dumping of Fill;*
- ii) the removal of topsoil;*
- iii) Placing, Dumping, removal or basting of rock; or*
- iv) any other action that Alters the Grade of land including the Altering in anyways of a Natural Drainage Course*

The Owner shall ensure that the information required for Site Alteration Plans is provided by a qualified Person. Two certified paper copies and one digital copy of the Site Alteration plan are required to be submitted. All plans are to be metric and all information provided must be legible and clear. All elevations shall be tied to the existing benchmarks and be related to the geodetic datum. Digital drawings are to be submitted in original software format (ARC GIS/CAD) and/or PDF.

General Requirements:

1. A key map showing the location of the Site, Site boundaries, number of hectares of the Site, the Site Alteration area, municipal address, legal description, nearest major intersection, a legend and north arrow;
2. The use of the Site and location of all buildings and Structures on and adjacent to the Site;
3. Location, dimensions and use of the buildings or other Structures proposed to be erected on the Site;
4. The location of Driveways on the Site and all basements, right-of-way over and across each Site;
5. The location of any body of water, wetlands, ditches, channels, environmental protection areas and features within 30 m of the proposed Site Alteration areas;
6. The Shoreline must be identified;
7. The location and identification of predominant Soil types;
8. The location and species types of vegetative cover, including the species and size of trees and shrubs;
9. The location and dimensions of any existing and proposed stormwater management or Drainage systems;
10. Location of any easements;
11. Location and dimensions of utilities, Structures, roads, paving or roads on the Site or within 30 m of the Site;
12. The identification of the proposed Finished Grade elevations of the Site;
13. Location and dimensions of all proposed Site Alteration activities;
14. Location and dimensions of all proposed temporary stockpiles for Fill, Soil and other materials;

15. Location and dimensions of all proposed staging areas for equipment;
16. An indication on the drawing of the direction of overland flow and overland flow routes;
17. The location, dimensions, design details and design calculations of all Site control measures, including plan and profile drawings of Erosion and sediment controls and stormwater management devices, necessary to meet the requirements of this by-law;
18. Provisions for the Maintenance of the Site and control measures;
19. A schedule of anticipated start and completion dates of each land disturbing or land developing activity including the installation of Erosion and sediment control measures needed at the Site;
20. Details of rehabilitation including the type and location of all interim and permanent stabilization measures;
21. A list of all vegetative species proposed to be removed or planted on the Site;
22. And such other information concerning the Site as may be required by the Director; and/or
23. Sedimentation Control Plan.
24. Proof on contractor and client insurance, including a cross-liability, co-naming the Township as insured, shall not have an exclusion pertaining to blasting and require that any blasting required to be done by an independent contractor duly qualified to do so, and a general comprehensive liability of no less than \$5,000,000.

Schedule "B" to By-law No. 2024-007

For Design and Maintenance of Erosion and Sedimentation Control Measures

1. Pre-Construction Information

The Sedimentation Control Plan shall include the following descriptive information concerning the pre-construction state of the Site:

- (a) A graphical scale Site map and keymap
- (b) Drainage information, including:
 - i. existing stormwater Drainage;
 - ii. natural Drainage channels on Site;
 - iii. natural Drainage channels within 30m of the Site boundary; and
- (c) Location and type of existing vegetative cover;
- (d) Description of the historical, current and any proposed future land use of the Site.

2. Sediment Control Plan

The Sedimentation Control Plan shall include the following information relating to the proposed Site Alteration:

- (a) A detailed description of the location and dimensions of all proposed Site Alteration activities.
- (b) Description of local receiving waters such as watercourses and lakes (e.g. warm water fisheries, cold water fisheries; aquatic habitat use, confined or unconfined valley);
- (c) Description of neighbouring areas, such as residential and commercial areas, reserves, natural areas, parks, storm sewers, and roads that might be affected by the land disturbance;
- (d) A description of Soils on the Site, including erodibility, and grain size analysis. This description should include a summary of the Soils/geotechnical report for the Site;
- (e) The location of all sediment fences that will be installed on the Site
- (f) Description of areas within the development Site that have the potential for serious Erosion or sediment problems;
- (f) A land Alteration sequencing plan, setting out;

- i. timing of construction activities;
 - ii. sequencing of installation and removal of all control measures; and
 - iii. measures taken to minimize exposed areas.
- (g) Description of how the Site will be stabilized after construction is completed. This will require a phasing plan of the Altered areas to be reseeded and the expected time of stabilization;
- (h) The location and dimensions of all temporary Soil or dirt stockpiles;
- (i) The location of all Erosion and sedimentation control measures to be installed on the Site.
- (j) Provide a list of emergency and non-emergency contacts complete with a phone number and email address (e.g. Owner, Site supervisor).

Schedule "C" to By-law No. 2024-007

Potential Site Design Guidelines may address some or all of the following:

- 1) Prevention of the impairment of water, groundwater and Soil quality as well as the off-site effects of Soil Erosion and sedimentation;
- 2) Dewatering and/or runoff control;
- 3) Plans shall include Drain Inlet Protections;
- 4) Site Erosion and sediment control;
- 5) Phasing to minimize the area of bare Soil exposed at any one time;
- 6) Rehabilitation and/or vegetative planting; and
- 7) Additional/reduced items as identified through public consultation.

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
NORTHEAST REGION

159 CEDAR STREET
3rd FLOOR, SUITE 303
SUDBURY, ONTARIO P3E 6A5



CABINET DU JUGE PRINCIPALE RÉGIONALE
COUR DE JUSTICE DE L'ONTARIO
RÉGION DU NORD-EST

159, RUE CEDAR
3^e ÉTAGE, BUREAU 303
SUDBURY (ONTARIO) P3E 6A5

TELEPHONE/TÉLÉPHONE (705) 564-7624
FAX/TÉLÉCOPIEUR (705) 564-7620

March 18, 2024

Mr. Rory Payton, C.P.S.O, M.L.E.O.
Supervisor, By-law Services
Seguin Township
5 Humphrey Drive
Seguin, Ontario, P2A 2W8

Dear Mr. Payton;

**Re: Set Fines – Provincial Offences Act
Part I – Seguin Township, Parry Sound District**

Thank you for your letter dated March 6th, 2024, directed to The Ministry of the Attorney General, Crown Law Office-Criminal, regarding set fines for By-Law 2024-007.

I have had an opportunity to consider your request. For the reasons that follow, I have set appropriate amounts for the fines, which do not necessarily accord with the amounts you requested.

A set fine is a sentencing process and must consider the circumstances of the offence, the need for deterrence and must also consider proportionality (minor versus serious offences). Early guilty pleas are also an important consideration.

The set fine regime is meant to encourage out of court settlements, while also considering the above principles and must also consider similar sentences for similar offences in the region.

The setting of the fines does not constitute my approval of the short form of wording used to describe the offences.

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
NORTHEAST REGION

159 CEDAR STREET
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FAX/TÉLÉCOPIEUR (705) 564-7620

I have forwarded the copy of the Orders and the schedules of these set fines to the Ontario Court of Justice in Parry Sound together with a certified copy of the By-Law.

Yours truly,

A handwritten signature in blue ink that reads "Karen Lische".

KAREN LISCHE
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE

KLL/hrd

Encl.

c.c.: His Worship Gary McMahon, Regional Senior Justice of the Peace
Her Worship Ruby Beck, Local Administrative Justice of the Peace

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
NORTHEAST REGION

159 CEDAR STREET
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SUDBURY (ONTARIO) P3E 6A5

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FAX/TÉLÉCOPIEUR (705) 564-7620

March 18, 2024

Ms. Melissa Adams, Crown Counsel
Crown Law Office, Criminal
720 Bay Street, 10th floor
Toronto, Ontario
M5G 2S9

Dear Ms. Adams:

RE: Set Fines - Provincial Offences Act
Part I, Seguin Township, Parry Sound District

Please find enclosed a copy of an Order dated March 18, 2024, and a copy of a letter to Mr. Rory Payton, C.P.S.O, M.L.E.O., Supervisor, By-law Services.

Should you have any questions, please do not hesitate to contact me at (705) 564-7624.

Yours truly,

A handwritten signature in blue ink that reads "Karen Lische".

KAREN LISCHE
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE

KLL/hrd

Encl.

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
NORTHEAST REGION

159 CEDAR STREET
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FAX/TÉLÉCOPIEUR (705) 564-7620

PROVINCIAL OFFENCES ACT

Part I

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-Law No. 2024-007, of Seguin Township, Parry Sound District, attached hereto is the set fine for that offence. This Order is to take effect March 18, 2024.

Dated at the City of Greater Sudbury, this 18th day of March, 2024.

A handwritten signature in blue ink that reads "Karen Lische".

KAREN LISCHE
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE

THE CORPORATION OF THE TOWNSHIP OF SEGUIN

PART I Provincial Offences Act

By-law No. 2024-007: Site Alteration By-law

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine	
1	Cause or Permit unauthorized/unpermitted Site Alteration	4.1	\$1000.00	\$ 750. ⁰⁰
2	Cause or Permit Site Alteration that results or may result in erosion on site/neighboring property	4.2 (a)	\$1000.00	\$ 750. ⁰⁰
3	Cause or Permit Site Alteration that results or may result in siltation/pollution of a watercourse/wetland/storm swale/sewer	4.2 (b)	\$1000.00	\$ 750. ⁰⁰
4	Cause or Permit Site Alteration that results or may result in steps/staircases into a Natural Drainage Course or through the Shoreline	4.2 (c)	\$1000.00	\$ 750. ⁰⁰
5	Cause or Permit Site Alteration for the installation of a foundation resulting in removal of trees without the appropriate Permit	4.6	\$1000.00	\$ 750. ⁰⁰
6	Fail to comply with Order	4.7	\$1000.00	\$ 750. ⁰⁰
7	Pull down/Remove/Deface posted Order	4.8	\$300.00	
8	Fail to produce or post Permit	4.9	\$300.00	
9	Fail to stop work - archaeological resources found	4.10	\$1000.00	\$ 750. ⁰⁰
10	Fail to erect sedimentation fence	4.12	\$1000.00	\$ 750. ⁰⁰
11	Fail to maintain sedimentation fence	4.13	\$1000.00	\$ 750. ⁰⁰
12	Cause or Permit Site Alteration for occasional or special event	4.14	\$1000.00	\$ 750. ⁰⁰
13	Permit Site Alteration contrary to Planning Act authorized Agreement	4.15	\$1000.00	\$ 750. ⁰⁰
14	Fail to cease Site Alteration while Permit is expired or revoked	7.8	\$1000.00	\$ 750. ⁰⁰
15	Hinder or obstruct Officer	11.1	\$500.00	

NOTE: The penalty provision for the offences indicated above is Section 12 of By-law No. 2024-007, a certified copy of which has been filed.

K. Kriache